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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of the)
Cable Television Consumer) MM Docket No. 92-260
Protection and Competition)
Act of 1992)
)
Cable Home Wiring)

Reply Comments of Citizens for a Sound Economy Foundation

Oh behalf of Citizens for a Sound Economy Foundation's 250,000 members, counsel submits these comments to urge the Commission to promulgate rules that will benefit our members and all cable consumers. We believe the Commission can accomplish that goal by applying to the cable industry the same rules that already apply to telephone company inside wiring.

Under section 16 (d) of the Act, the Commission must decide whether cable subscribers should own home wire after termination of cable service. We believe that subscriber ownership of -- or at least unrestricted access to -- home cable wire will deliver the same benefits as the Commission's existing rules that give telephone users unrestricted access to their inside telephone wiring.

We also believe the Commission should adopt rules addressing whether a cable subscriber owns or has access to the inside wire

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before terminating cable service. While section 16 (d) does not require the Commission to address this latter issue, it also does not prohibit the Commission from addressing it. Moreover, since Congress intended section 16 (d) to provide consumers with the benefits of competition, we believe the Commission should rule that cable subscribers own or have unlimited access to home wire regardless of whether cable service has been terminated.

The Senate Report provides that

[s]ome cable operators take the position that the wiring inside the home belongs to the operator. Thus, when the subscriber terminates service, these cable operators remove the wiring, often causing damage in the process. These operators do not give the homeowner an opportunity to acquire the wiring. In addition, if a subscriber decides to terminate cable service and later reinstate it or seek service from a different cable company, the subscriber should not have to bear the cost and inconvenience of having new wiring installed.¹

The Report goes on to provide that "the FCC should...permit ownership of the cable wiring by the homeowner." This policy "will protect consumers against the imposition of unnecessary charges, for example, for home wiring maintenance."²

¹ Cable Television Consumer Protection Act of 1991, 102d Congress, 1st Session (Senate) Report 102-92, June 22, 1991, p. 23.

² Id.

The House Report reaches a similar conclusion:

The Committee believes that subscribers who terminate cable service should have the right to acquire wiring that has been installed by the cable operator in their dwelling unit. This right would enable consumers to utilize the wiring with an alternative multichannel video delivery system and avoid any disruption the removal of such wiring may cause.³

Thus, Congress clearly intended consumers to own, or at least to use, home wire after termination. In addition, we believe Congressional intent supports subscriber ownership or unrestricted use before termination.

The Senate Report uses the Commission's rulings on telephone inside wiring as a benchmark. The Report states that the Commission "permits consumers to remove, replace, rearrange, or maintain telephone wiring" in their homes, even if the telephone company owns the wire. According to the Report, "this is a good policy and should be applied to cable."⁴

The policies underlying the Commission's telephone inside wiring rulings are "to increase competition, to promote new entry into the market, to produce cost savings which would benefit the

³ Cable Television Consumer Protection and Competition Act of 1992, 102d Congress, 2d Session (House of Representatives) Report 102-628, June 29, 1992, p. 118.

⁴ Senate Report, p. 23.

ratepayers, and to create an unregulated competitive marketplace environment for the development of telecommunications."⁵ To achieve these policy goals, the inside wiring rule provides that telephone companies must give all customers unrestricted access to carrier-installed inside wiring on the customers' side of a demarcation point.⁶

Thus, access to telephone company inside wiring does not turn on termination of service. The result is that alarm companies and other service providers can use inside wire at the same time consumers use it for telephone service, which is precisely what the Commission hoped to achieve.

If, as Congress intended, the Commission uses its inside wiring rulings as a guidepost in the home wire proceeding, it should conclude that consumers will be best served by acquiring either ownership or unrestricted use, regardless of whether they terminate cable service. That would allow consumers to partake of the benefits of much-needed competition against entrenched cable monopolies.

⁵ In the Matter of Detariffing the Installation and Maintenance of Inside Wiring, CC Docket No. 79-105, Second Report and Order, p. 2. (released February 24, 1986).

⁶ See In re Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of Section 68.213 of the Commission's Rules filed by the Electronic Industry Association, CC Docket No. 88-57, Report and Order, pp. 21-25 & n. 23 (released June 6, 1990).

For instance, if a municipality grants a second cable franchise, consumers would not have to terminate their existing cable service to acquire the competing service. Instead, if they own or have unrestricted access to the home wire, consumers could subscribe to both cable services at once. The cable providers would have to compete on price and service to maintain consumers' allegiance, with consumers reaping the benefits of lower prices and better services.

Another benefit of the ruling we seek is that it would remove barriers to entry for potential cable competitors and foster competition for broadband services. Absent such a ruling, a potential competitor who wished to use the cable wires would have to convince cable subscribers to terminate their cable service before it could offer a competing service. This could be a difficult task, since consumers would have to deal with the inconvenience of terminating the current cable service and waiting for a second service to be installed. Alternatively, competitors would need to install a second set of cables, which many potential subscribers might find inconvenient and disruptive.

In sum, Congress intended the Commission to rule that cable subscribers own or have unrestricted access to home wire after termination of cable service. Congress's interest would also be furthered by applying the same rationale to ownership of the

before termination. Thus, we strongly urge the Commission to rule that cable subscribers own or have unlimited access to home wire regardless of termination, as consumers and potential competitors would reap substantial benefits.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Phillip Mink", is written over a horizontal line.

Phillip Mink
General Counsel